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San Jose CA 95126

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SEP 20 2005

OFFICE OF PETITIONS

In re Application of :
Robert Samuel Smith :
Application No. 09/620,287 :
Filed: July 20, 2000 :
Attorney Docket No. RSSU2 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is necessary for filing a renewed petition.

This application became abandoned on February 25, 2005, for failure to pay the issue fee and submit timely corrected drawings as required by the Notice of Allowance and Notice of Allowability, respectively, mailed on November 24, 2004. A Notice of Abandonment was mailed on April 18, 2005.

The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an

application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) The petition fee as set forth in 37 CFR 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The present petition does not satisfy requirement (1) above.

On November 24, 2004, the Office mailed a Notice of Allowability, requiring corrected drawings, including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948), as well as changes required by the Examiner's Amendment (attached to the Notice of Allowability). Upon reviewing the documents submitted with the present petition, it appears that petitioner did not file any corrected drawings or submit any changes as required by the Examiner's Amendment (attached to the Notice of Allowability). Pursuant to the provision of 37 CFR 1.137(b)(1) and in accordance with 35 USC §§ 133 and 151, the aforementioned items are a necessary component of the required reply and must be submitted with any petition to revive. **Accordingly, this application cannot be revived until petitioner submits corrected drawings and any changes required by the Examiner's Amendment.**

The Office acknowledges the payment of the issue fee with the present petition, as required by the Notice of Allowance and Fee(s) Due.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Senior Petitions Attorney Christina Tartera Donnell:**

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
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401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions